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RECORDATION NO. _____ FILED 1226

ITEL

AUG 5 1988-3 45 PM

August 1, 1988

INTERSTATE COMMERCE COMMISSION

IteI Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

Hon. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: Amendment No. 2 to Schedule 1 of the Lease Agreement dated as of June 6, 1980, between The Ferdinand and Huntingburg Railroad Company, as assignee of the Louisville, New Albany and Corydon Railroad Company, and Modesto Empire and Traction Company (~~less attached~~)

Dear Ms. McGee:

On behalf of IteI Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Amendment under a new recordation number.

The parties to the aforementioned instrument are listed below:

The Ferdinand and Huntingburg Railroad Company (Lessor)
55 Francisco Street
San Francisco, California 94133

Modesto Empire and Traction Company (Lessee)
530 Eleventh Street
Modesto, California 95353

This Amendment covers one hundred ninety-four (194) RBL boxcars bearing reporting marks LNAC 5700-5899 (n.s.) and one (1) XLI boxcar bearing reporting mark LNAC 5845.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

1 5769

RECORDATION NO. _____ FILE 1888

AUG 5 1988-3 44 PM

LOT NO. 1867-00
1867-01

06/24/88

INTERSTATE COMMERCE COMMISSION
AMENDMENT NO. 2

AMENDMENT NO. 2 (the "Amendment") to Schedule 1 dated June 6, 1980, as amended, ("Schedule 1") to Lease Agreement dated as of June 6, 1980 (the "Lease"), between FERDINAND AND HUNTINGBURG RAILROAD COMPANY, as assignee of Louisville, New Albany and Corydon Railroad Company ("Lessor"), and MODESTO EMPIRE AND TRACTION COMPANY ("Lessee") is made as of this 8th day of July, 1988, by and between Lessor and Lessee.

RECITALS:

- A. Lessor and Lessee are parties to Schedule 1 to the Lease pursuant to which one hundred ninety-seven (197) RBL Boxcars bearing reporting marks LNAC 5700-5807; 5809-5837; 5839-5844; 5846-5899 and one (1) XLI Boxcar bearing reporting marks LNAC 5845 were leased by Lessor to Lessee.
- B. Cars bearing the reporting marks LNAC 5747, 5846 and 5884 were destroyed prior to December 4, 1987.
- C. The rights of LNAC to one hundred ninety-four (194) RBL Boxcars bearing reporting marks 5700-5746; 5748-5807; 5809-5837; 5839-5844; 5847-5883; 5885-5899 and one (1) XLI Boxcar bearing reporting marks LNAC 5845 ("the Cars") were assigned to Lessor on December 14, 1987.
- D. The parties desire to amend the terms of Schedule 1.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to amend Schedule 1 as follows:

- 1. All terms defined in Schedule 1 and the Lease shall have the meanings defined in those documents when used in this Amendment.
- 2. During the term of the Lease, Lessor may, at its option and expense, and upon notification from Lessor to Lessee, remark the Cars to the reporting marks FRDN.
- 3. Commencing upon the execution of this Amendment and continuing through and including February 28, 1991, the Rental as provided in Section 2. of the Lease, as amended by the First Amendment dated as of February 5, 1987 ("First Amendment") to Schedule 1 dated as of June 6, 1980 ("Schedule 1") to the Lease, shall be replaced by the following:
 - A. Lessor shall retain a sum equal to the total Revenues, as hereinafter defined, and shall pay to Lessee

Lessee's lines. Revenues ("Revenues") is defined as the total

revenues earned and due from other railroad companies for the use or handling of the Cars, including but not limited to, per diem and mileage, whether or not collected and received by Lessor and undiminished by any claimed abatement, reduction or offset caused by any action of Lessee. Upon any such abatement, reduction or offset, Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor for such amounts.

- B. The parties hereby mutually agree to use their best efforts to maintain the bilateral agreements with The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Transportation Company and the Union Pacific Railroad Company during the term of this Lease.
- C. Commencing on March 1, 1991, the Rental as provided in Section 2. of the Lease ~~as amended by the First Amendment to Schedule 1 of the Lease~~, shall become effective and continue through the expiration or termination of the Lease. *WJB*
4. Notification to Lessor pursuant to Section 15.(b) of the Lease, shall be addressed to:
- Ferdinand and Huntingburg Railroad Company
55 Francisco Street
San Francisco, California 94133
5. Except as expressly modified by this Amendment, all terms and provisions of Schedule 1 shall remain in full force and effect.
6. This Amendment may be executed by the parties hereto in any number of counterparts and all said counterparts taken together shall be deemed to constitute one and the same instrument.

FERDINAND AND HUNTINGBURG
RAILROAD COMPANY

By: W. J. Hunt

Title: PRESIDENT

Date: 7/8/88

MODESTO EMPIRE AND TRACTION COMPANY

By: James A. Beard

Title: President


Date: June 30, 1988

LOT NO. 1867-00
1867-01

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

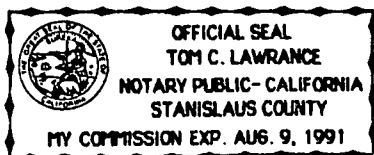
On this 8th day of July, 1988, before me personally appeared William J. Herndon, to me personally known, who being by me duly sworn says that such person is President of Ferdinand and Huntingburg Railroad Company, that the foregoing Amendment No. 2 to Schedule 1 signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF CALIFORNIA)
) ss:
COUNTY OF STANISLAUS)

On this thirtieth day of June, 1988, before me personally appeared James L. Beard, to me personally known, who being by me duly sworn says that such person is President of Modesto Empire and Traction Company, that the foregoing Amendment No. 2 to Schedule 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Tom C. Lawrance
Notary Public

L E A S E

AGREEMENT made and entered into this 6th day of June,
1980, between

LOUISVILLE, NEW ALBANY AND CORYDON RAILROAD COMPANY
an Indiana corporation (hereinafter called "LNAC")

and

MODESTO EMPIRE AND TRACTION COMPANY
a California corporation (hereinafter called "Lessee")

RECITALS

Lessee desires to lease from LNAC as Lessor certain railroad cars, hereinafter specifically designated or to be specifically designated, all upon the rentals, terms and conditions as set forth in this Lease.

AGREEMENT

It is agreed:

1. Lease of Cars. LNAC agrees to lease to Lessee and Lessee agrees to and does hereby lease from LNAC that number of railroad cars, of the type, construction and such other description (hereinafter referred to as the "Cars") as is set forth in Schedule 1 of this Lease and as is set forth in Schedules which may from time to time be added to this Lease. The Cars covered by this Lease are those which shall be delivered to and accepted by or on behalf of Lessee pursuant to the terms hereof. This Lease shall become effective with respect to any Car as of the date of its delivery and acceptance hereunder and shall continue with respect to such Car until the end of the term provided in the Schedule covering such Car unless sooner terminated as hereinafter provided. LNAC shall deliver Cars f.o.t. at the delivery point specified in the Schedule covering such Cars.
2. Rental. When Average Car Usage is equal to or less than _____ in any calendar quarter, the rental per Car

per day shall be all payments including but not limited to mileage charges, straight car hire and incentive car hire (if any) payable to LNAC on account of such Car.

In the event Average Car Usage exceeds ^{calendar} quarter, LNAC shall receive as rental an amount equal to in the previous sentence for Average Car

Lessee shall be entitled to LNAC will within sixty (60) days after the end of each calendar quarter during the term hereof compute the Average Car Usage for such quarter and the amount so determined to be due to Lessee shall be promptly paid. Rental on each Car shall accrue from and after the date of delivery and acceptance of each Car. In the event that Average Car

during any calendar quarter and the mileage for the Cars during one or more calendar months of that miles, then the mileage component of the payments referred to above

mile in for each such month.

3. Acceptance of Cars. Within three (3) days after LNAC shall give Lessee notice that some or all Cars covered by a Schedule are ready for delivery, Lessee may have its authorized representative inspect such Cars at the point of delivery and accept or reject them as being or failing to be in compliance with the terms hereof. Cars so inspected and accepted and any Cars which Lessee does not elect to inspect shall be conclusively deemed delivered to and accepted by Lessee.
4. Records. LNAC shall keep records of and monitor the use and movements of all Cars and shall make available to Lessee all information and copies of all records and reports, pertaining to the Cars received by LNAC or available to it. Lessee shall have the right at any time and from time to time to audit and verify any such information, records and reports and other data pertinent hereto and LNAC shall cooperate with and assist Lessee in

any such audit or verification. Lessee will at LNAC's expense file such applications for relief from any Interchange Rules as LNAC may direct to increase revenues of the Cars and will at LNAC's expense take all appropriate action to record and register the Cars as LNAC may request. In addition, if Lessee knows of the initial loading of any of the Cars, Lessee shall promptly thereafter notify LNAC of the date, handling railroad and destination of such initial loading.

5. Use - Lettering. Lessee shall use the Cars in a careful and prudent manner in compliance with all Interchange Rules and solely for the uses for which they were designed. From and after the delivery of a Car to Lessee, so long as Lessee shall not be in default hereunder, Lessee shall be entitled to the use of the Car for the full term of this Lease, but solely within the continental limits of the United States of America. Except for the lettering to be placed on the Cars by LNAC prior to delivery indicating the interests of Lessee, LNAC and any assignee or mortgagee of LNAC as permitted in Paragraph 11 hereof, no lettering or marking shall be placed upon any of the Cars by Lessee except upon the written direction or consent of LNAC. Lessee shall give preference and shall load the Cars prior to loading similar railroad cars leased from other parties subsequent to the date of this Lease or purchased by Lessee subsequent to the date of this Lease or interchanged with other railroads, provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request to shippers on its railroad tracks, and, provided further, Lessee shall not have to provide the Cars priority at the expense of unreasonably disrupting Lessee's normal operations.
6. Repair Work. Except as otherwise provided herein, LNAC shall at its sole cost and expense perform all Repair Work or authorize or cause same to be done. Lessee shall at its sole cost and expense perform or cause to be performed all Repair Work required by reason of the negligence of Lessee or

an affiliate of Lessee (excluding nonaffiliated carrying lines). LNAC shall have a duty to perform promptly Repair Work for which it is responsible, but such obligation shall not commence until LNAC is informed of the need for such Repair Work. LNAC may require Lessee to return Cars, at the sole expense of whichever party hereto shall be responsible under this Section 6 for performing, authorizing or causing to be done such Repair Work or maintenance, for preventive maintenance or Repair Work and may withdraw from this Lease any Cars which it in its sole discretion deems uneconomical for Repair Work of any kind.

7. Casualty Cars. LNAC shall bear the risk of any Car which is lost, stolen, destroyed or damaged beyond economical repair ("Casualty Car") other than on Lessee's lines. Lessee shall bear the risk of and be responsible for any Car which is lost, stolen, destroyed or damaged beyond economical repair on its lines and shall, within thirty (30) days after the occurrence of any such event, pay to LNAC the amount provided in the Interchange Rules to be paid for such Casualty Car. This Lease shall terminate as to any Casualty Car on the date on which the casualty occurred. All payments for Repair Work or in connection with the loss of any Casualty Car due from third parties shall be assigned to and belong to the party bearing the responsibility therefor under Section 6 or the risk thereof under this Section 7. Each party shall cooperate with the other in the prosecution and collection of all claims for the aforementioned payments.
8. Indemnity. LNAC will defend, indemnify and hold Lessee harmless from and against (1) any and all damage, loss, claim, deficiency or expense of any kind, including attorney's fees, based upon loss or damage to the Cars, unless occurring while Lessee has physical possession of such Cars, (2) any claim by any third party that the consummation of the transactions contemplated hereby violates the rights of any person or is otherwise contrary to law, except insofar as and to the extent that any failure by Lessee to comply with and carry out the terms of this

Lease, contributes materially to such damage, loss, claim, deficiency or expense, and (3) any other type of damage, loss, claim, deficiency or expense which may be asserted against Lessee with respect to the Cars (unless occurring through the fault of Lessee), including without limitation claims with respect to or related to the construction, purchase, delivery to Lessee's railroad line, ownership, leasing, return, use, maintenance, repair, replacement, operation or condition (whether defects, if any, are latent or are discoverable by LNAC or Lessee) of the Cars.

Lessee will defend, indemnify and hold LNAC harmless from and against (1) any and all damage, loss, claim, deficiency or expense of any kind, including attorney's fees, based upon loss or damage to the Cars occurring while Lessee has physical possession of such Cars, (2) any claim by any third party that the consummation of the transactions contemplated hereby violates the rights of any person or is otherwise contrary to law insofar as and to the extent that any failure by Lessee to comply with and carry out the terms of this Lease contributes materially to such damage, loss, claim, deficiency or expense, and (3) any other type of damage, loss, claim, deficiency or expense which may be asserted against LNAC with respect to the Cars and occurring through the fault of Lessee.

In the event any action shall be commenced or claim asserted against either party, said party (the "Named Party") shall give notice of such action or claim to the other party (the "Notified Party") promptly after receipt of written notice of such action or claim. Said Notified Party shall be entitled to participate in, and, to the extent it shall wish, to direct the defense against any such claim or in any such action (in a manner reasonably satisfactory to the Named Party) at its own expense. The Named Party shall have the right to employ its own counsel in any case, but the fees and expenses of such counsel shall be at its own expense unless the employment of such counsel shall have been authorized by the Notified Party in connection with the defense of such action

or claim, or unless the Notified Party shall not have employed counsel to have charge of the defense of the action or claims in either of which events such fees and expenses shall be borne by the Notified Party.

9. Taxes. LNAC shall pay all property taxes assessed or levied against the Cars. LNAC shall pay all taxes based upon the earnings or rental of cars. LNAC will file all property or ad valorem tax returns. LNAC and Lessee agree that, as between themselves, LNAC shall be entitled to claim the benefits of any available Investment Tax Credit for Federal Income tax purposes.
10. Termination. This Lease shall terminate upon expiration of its term, at election of either party hereto by reason of the default or breach of the other party in the terms hereof, or upon the election of LNAC as hereinafter provided. In the event of a default or breach by either party, the other party may elect to terminate this Lease with respect to all or less than all of the Cars. In the event that (i) daily Car Usage for all Cars or any group of Cars in any calendar

cal payable to LNAC during such quarter averages less than

at its option upon thirty (30) days notice to Lessee terminate this Lease in its entirety, or terminate the Lease as to any or all of the Cars subject to this Lease or any Schedule hereto. Lessee shall at the termination of the Lease with respect to any Cars return such Cars to LNAC in the same condition (except as to Casualty Cars) in which the Cars were furnished and maintained by LNAC during the term hereof, ordinary wear and tear excepted. Upon the termination of this Lease with respect to any or all Cars, Lessee may return the Cars at the final unloading point, provided however, that Lessee shall use every best effort to load the Cars to a point as near as possible to a point or points designated by LNAC not later than thirty (30) days prior to the termination of the term hereof. If requested by LNAC, Lessee shall provide free storage for a period of up to thirty (30) days

for Cars as to which the Lease is terminated, provided that risk of loss during such storage shall be LNAC's. This Lease may be terminated as to all Cars or as to any group of Cars covered by a Schedule without termination of the Lease as to Cars covered by any other Schedule. From and after termination of this Lease with respect to any Car and until its return to LNAC, all amounts earned by such Car shall be paid to LNAC as additional rental for use of the Cars during the term hereof and LNAC shall pay all costs and expenses on account of transportation or movement of the Cars. The rights of LNAC hereunder shall be LNAC's only remedy in the event Car Usage or rentals are less than that desired by LNAC.

11. Sublease and Assignment. The right to assign this Lease by either party and the Lessee's right to sublease shall exist only as follows:

- (a) Lessee shall have no right to assign this Lease or sublease or loan any of the Cars without the written consent of LNAC.
- (b) All rights of LNAC hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part and LNAC agrees to give notice to Lessee within thirty (30) days of such assignment, pledge, mortgage, transfer or other disposition. This Lease and Lessee's rights hereunder are and shall be subject and subordinate to any chattel mortgage, security agreement or equipment trust covering the cars heretofore or hereafter created by LNAC. If LNAC shall have given written notice to Lessee stating the identity and post office address of any assignee entitled to receive future rentals and any other sums payable by Lessee hereunder, Lessee shall thereafter make such payments to the designated assignee.

The making of an assignment or sublease by Lessee or an assignment, transfer or other disposal by LNAC shall not serve to relieve such party of any liability or undertaking

hereunder nor to impose any liability or undertaking hereunder upon any such assignee or sublessee except as otherwise provided herein or unless expressly assumed in writing by such sublessee or assignee.

12. Default. If Lessee or LNAC shall fail to make any payment required hereunder within five (5) days after same shall have become due or shall breach any representation or warranty contained herein or shall default or fail for a period of ten (10) days in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part hereunder, or a proceeding shall have been commenced by or against Lessee or LNAC under any bankruptcy laws, Federal or State, or other laws for the appointment of a receiver, assignee or trustee of Lessee or LNAC or their property, or Lessee or LNAC shall make a general assignment for the benefit of creditors, then and in any of said events LNAC or Lessee, as the case may be, may in addition to all other rights and remedies provided in law of equity, upon written notice to such effect, terminate this Lease in its entirety or with respect to any group of Cars with respect to which said default has occurred and thereafter recover any and all damages sustained by reason of Lessee's or LNAC's default. The obligation to pay rental then or thereafter due or any other sum or sums due and unpaid or any damages suffered by reason of Lessee's or LNAC's default hereunder shall survive the termination of the Lease and the retaking of the Cars.

13. Definitions. For all purposes of this Lease the following terms shall have the following meaning:

"Repair Work" - all repairs, maintenance, modifications, additions or replacements required to keep Cars in good working order and condition and in compliance with all Interchange Rules.

"Interchange Rules" - all codes, rules, decisions, interpretations, laws and orders governing hire, use, condition,

repair and all other matters pertaining to the interchange of freight traffic reasonably interpreted as being applicable to the Cars, adopted and in effect from time to time during the term of this Lease by the Association of American Railroads and any other organization, agency or governmental authority, such as but not limited to the Interstate Commerce Commission and the United States Department of Transportation, which may from time to time be responsible for or have authority to impose such codes, rules, decisions, interpretations, laws or orders.

"Car Usage" - a percentage equal to the quotient obtained by dividing the aggregate number of hours in a calendar quarter (or other applicable time period) in which straight car hire is earned on a Car commencing with its date of delivery, by the aggregate number of hours in such quarter (or other applicable time period) in which the Car is under lease to Lessee commencing with its date of delivery.

"Average Car Usage" - a percentage equal to the quotient obtained by dividing the sum of all Car Usage for all Cars for which straight car hire is earned for the applicable quarter (or other applicable time period) by the number of such Cars.

14. Representations and Warranty. Lessee and LNAC respectively covenant, warrant, and represent that all of the following matters shall be true and correct at all times that any Car is subject to this Lease:

- (a) Each party is a corporation duly organized and validly existing in good standing under the laws of the state of its incorporation and has the corporate power, authority and is duly authorized and qualified to do business wherever it transacts business and such qualification is required, and has corporate power to and has taken all corporate action

necessary to enter into this Lease and carry out its obligations hereunder;

- (b) This Lease has been duly executed on behalf of each party and constitutes the legal, valid and binding obligation of the respective parties enforceable in accordance with its terms.
- (c) No governmental, administrative or judicial authorization, permission, consent or approval is necessary on the part of either party in connection with this Lease or any action contemplated on its part hereunder, nor will the execution or performance of this Lease violate any law, judgment order or regulation, or any indenture or agreement binding upon either party; and
- (d) Neither party nor their respective counsel know of any requirements for recording, filing or depositing this Lease other than pursuant to Section 20c of the Interstate Commerce Act, which is necessary to preserve or protect the title of LNAC or its assignee or mortgagee in United States of America.
- (e) LNAC warrants that Cars delivered to Lessee pursuant to this Lease shall be in good, safe and working order and condition, and shall comply with all applicable Interchange Rules at the time such Cars are delivered to Lessee. By this warranty, LNAC is in no way relieved of any warranties that may be implied by law.

15. Miscellaneous.

- (a) This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns to the extent permitted herein.
- (b) Any notice required or permitted to be given by one party to another hereunder shall be properly given when made in writing, deposited in the United States

mail, registered or certified, postage prepaid, addressed to:

LNAC at: East Tower
2550 Golf Road
Rolling Meadows, Illinois 60008

Lessee at: 530 Eleventh Street
Modesto, California 95353

or such other address as either party may from time to time designate by such notice in writing to the other.

- (c) Lessee shall keep the Cars free from any encumbrances or liens, which may be a cloud upon or otherwise affect LNAC's title, which arise out of any suit involving Lessee, or any act, omission or failure of Lessee or Lessee's failure to comply with the provisions of this Lease and shall promptly discharge any such lien, encumbrance or legal process. Lessee shall take all action requested by LNAC to confirm LNAC's interest in the Cars as Lessor and that Lessee has no interest in the Cars other than as Lessee hereunder.
- (d) So long as Lessee is not in default under this Lease, Lessee shall be entitled to the peaceful and quiet possession of the Cars.
- (e) During the continuance of this Lease, LNAC shall have the right, at its own cost and expense, to inspect the Cars at any reasonable time or times wherever the Cars may be. Lessee shall, upon request of LNAC, but no more than once every year, furnish to LNAC two (2) copies of an accurate inventory of all Cars in service.

(f) This Lease shall be construed, governed and enforced in accordance with the laws of the State of California from time to time obtaining.

IN WITNESS WHEREOF, LNAC and Lessee have duly executed this Lease as of the day and year first above written.

LOUISVILLE, NEW ALBANY & CORYDON
RAILROAD COMPANY, an Indiana
corporation

By Walter Chapman
President

ATTEST:

Laura L. Linneman Secretary
MODESTO AND EMPIRE TRACTION
COMPANY

By R. F. Olson
President

ATTEST:

James L. Beard
Secretary

STATE OF Illinois
COUNTY OF Cook

On this ____ day of _____, 1980, before me personally appeared _____ to me personally known, who being by me duly sworn says that he is _____ President of the Louisville, New Albany & Corydon Railroad Company and _____, to me personally known to be the _____ Secretary of said corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

STATE OF CALIFORNIA
COUNTY OF

On this ____ day of _____, 1980, before me personally appeared _____ known to me personally to be President of the Modesto & Empire Traction Company, and _____, to me personally known to be the Secretary of said corporation.

Notary Public

SCHEDULE 1

Lease dated June 6, 1980, by and between
Louisville, New Albany & Corydon Railroad Company ("LNAC")
and Modesto and Empire Traction Company ("Lessee").

DESCRIPTION OF CAR: New 52' 5" 70-Ton RBL Boxcars, ^{form} insulated, equipped with Dual Air Pak Bulkheads. *R.P.O.*

NUMBER OF CARS: 200

REPORTING NUMBERS AND MARKS: LNAC 5700-5899

PLACE OF DELIVERY: ~~Modesto, California~~
Blue Island, Illinois

TERM: Fifteen (15) years from the average date of delivery and an acceptance of each Car covered by this Schedule. Average date of delivery is that date which is determined by (i) multiplying the number of Cars delivered by LNAC on each day by the number of days elapsed between such day and the date of delivery of the first Car hereunder, and (ii) adding all of the products so obtained and dividing that sum by the total number of Cars delivered and (iii) adding such quotient rounded out to the nearest whole number to the date of delivery of the first Car. The date on which delivery of a Car shall be deemed to have been made will be the day following delivery of the Car to the Lessee, as specified in Paragraph 2.

SPECIAL TERMS:

MODESTO & EMPIRE TRACTION
COMPANY
Lessee

LOUISVILLE, NEW ALBANY &
CORYDON RAILROAD COMPANY
Lessor

By

R.F. Olsen

By

Walter Anderson

CERTIFICATE OF ACCEPTANCE

Louisville, New Albany & Corydon Railroad Company -
East Tower
2550 Gulf Road
Rolling Meadows, Illinois 60008

Gentlemen:

The undersigned, being a duly authorized agent
for the Lessee, hereby certifies that he has identified,
upon arrival at Lessee's line, _____ Cars bearing numbers
as follows:

and hereby accepts such Cars for the Lessee pursuant to
the Lease.

Dated: _____, 1980.

MODESTO & EMPIRE TRACTION COMPANY

By _____

FIRST AMENDMENT DATED FEBRUARY 5, 1987

FIRST AMENDMENT dated as of February 5, 1987, to Schedule 1 dated June 6, 1980, ("Schedule 1") of that certain Railroad Car Lease Agreement dated June 6, 1980, ("Lease") by and between LOUISVILLE NEW ALBANY AND CORYDON RAILROAD COMPANY as Lessor ("LNAC") and MODESTO AND EMPIRE TRACTION COMPANY, as Lessee ("M&ET").

W I T N E S S E T H:

WHEREAS, pursuant to the Lease and Schedule 1, M&ET currently leases one hundred ninety seven (197) new 52'5" 70-ton RBL box cars, foam insulated, equipped with dual air pak bulkheads, marked and numbered: LNAC 5700-5729, 5730-5807; 5809-5837; 5839-5844; 5846-5899 ("Cars") from Evans; and

WHEREAS, all parties hereto desire to amend Schedule 1 as hereinafter indicated:

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, the parties agree as follows:

1. M&ET shall be entitled to a loading allowance of per car per load to be paid to M&ET after the LNAC has processed the car hire earnings for a particular month. It is understood that the information which is necessary to perform such calculations is customarily unavailable for use until approximately (90) days following the end of the month in question, therefore it is agreed that the calculation for each month shall be performed as soon as practicable after such information is available and payment shall be made to M&ET within (30) days thereafter.
2. As rental LNAC shall be entitled to retain on account of the use of such Cars except that LNAC shall pay to M&ET Atchison, Topeka & Santa Fe Railway ("ATSF") for any empty Car returning to the M&ET over the ATSF Railroad lines. It is further agreed that the LNAC shall retain earnings paid by the ATSF on such Car returning empty to the M&ET.
3. Except to the extent hereby or heretofore modified or amended, the terms and conditions of Schedule 1 and of the Lease shall remain unchanged.


IN WITNESS WHEREOF, LNAC and M&ET have entered into this First Amendment
this 5th day of February, 1987.

(CORPORATE SEAL)

ATTEST:

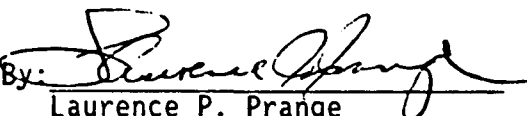
By: 
Asst. Secretary

MODESTO AND EMPIRE TRACTION COMPANY

By: 
President

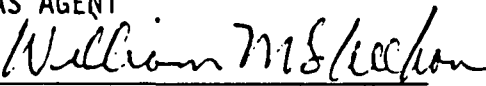
(CORPORATE SEAL)

ATTEST:

By: 
Laurence P. Prange
Assistant Secretary

LOUISVILLE NEW ABLANY AND CORYDON RAIL-
ROAD COMPANY

By: EVANS RAILCAR LEASING COMPANY,
AS AGENT

By: 
William M. Sheehan
Vice President Marketing